

ASSEMBLY BILL

No. 1037

Introduced by Assembly Member Frommer

February 22, 2005

An act to amend Section 24306 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1037, as introduced, Frommer. Corporation tax: Golden State Scholarshare Trust.

The Corporation Tax Law, in conformity with federal income tax laws, excludes from gross income any earnings under a qualified tuition program or savings account, and distributions from the program or account are includable in gross income only to the extent the distributions exceed the amounts contributed.

This bill would make a technical, nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 24306 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 24306. (a) For purposes of this section, the following terms
- 4 have the following meanings, as provided in the Golden State
- 5 Scholarshare Trust Act (Article 19 (commencing with Section
- 6 69980) of Chapter 2 of Part 42 of the Education Code):
- 7 (1) "Beneficiary" has the meaning set forth in subdivision (c)
- 8 of Section 69980 of the Education Code.

1 (2) “Benefit” has the meaning set forth in subdivision (d) of
2 Section 69980 of the Education Code.

3 (3) “Participant” has the meaning set forth in subdivision (h)
4 of Section 69980 of the Education Code.

5 (4) “Participation agreement” has the meaning set forth in
6 subdivision (i) of Section 69980 of the Education Code.

7 (5) “Scholarshare trust” has the meaning set forth in
8 subdivision (f) of Section 69980 of the Education Code.

9 (b) Except as otherwise provided in subdivision (c), gross
10 income of a participant shall not include any of the following:

11 (1) Any earnings under a Scholarshare trust, or a participation
12 agreement, as provided in Article 19 (commencing with Section
13 69980) of Chapter 2 of Part 42 of the Education Code.

14 (2) Contributions to the Scholarshare trust on behalf of a
15 beneficiary shall not be includable as gross income of that
16 beneficiary.

17 (c) (1) Any distribution under a Scholarshare trust
18 participation agreement shall be includable in the gross income
19 of the distributee in the manner as provided under Section 72 of
20 the Internal Revenue Code, as modified by Section 24272.2, to
21 the extent not excluded from gross income under any other
22 provision of this part. For purposes of applying Section 72 of the
23 Internal Revenue Code, the following apply:

24 (A) All Scholarshare trust accounts of which an individual is a
25 beneficiary shall be treated as one account, except as otherwise
26 provided.

27 (B) All distributions during a taxable year shall be treated as
28 one distribution.

29 (C) The value of the participation agreement, income on the
30 participation agreement, and investment in the participation
31 agreement shall be computed as of the close of the calendar year
32 in which the taxable year begins.

33 (2) A contribution by a for-profit or nonprofit entity, or by a
34 state or local government agency, for the benefit of an owner or
35 employee of that entity or a beneficiary whom the owner or
36 employee has the power to designate, including the owner or
37 employee’s minor children, shall be included in the gross income
38 of that owner or employee in the year the contribution is made.

39 (3) For purposes of this subdivision, “distribution” includes
40 any benefit furnished to a beneficiary under a participation

1 agreement, as provided in Article 19 (commencing with Section
2 69980) of Chapter 2 of Part 42 of the Education Code.

3 (4) (A) Paragraph (1) shall not apply to that portion of any
4 distribution that, within 60 days of distribution, is transferred to
5 the credit of another beneficiary under the Scholarshare trust who
6 is a “member of the family,” as that term is used in Section
7 529(e)(2) of the Internal Revenue Code, as amended by Section
8 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of
9 the former beneficiary of that Scholarshare trust.

10 (B) Any change in the beneficiary of an interest in the
11 Scholarshare trust shall not be treated as a distribution for
12 purposes of paragraph (1) if the new beneficiary is a “member of
13 the family,” as that term is used in Section 2032A(e)(2) of the
14 Internal Revenue Code, of the former beneficiary of that
15 Scholarshare trust.

16 (d) For taxable years beginning on or after January 1, 2002,
17 Sections 529(c) and 529(e) of the Internal Revenue Code, as
18 amended by Section 402 of the Economic Growth and Tax Relief
19 Reconciliation Act of 2001 (Public Law 107-16) and Section 417
20 of the Job Creation and Worker Assistance Act of 2002 (Public
21 Law 107-147), shall apply in lieu of subdivisions (b) and (c) of
22 this section.